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Date: MAY 18, 2005

To: EXAMINER RASHA S. AL AUBAIDI  
U.S. PATENT AND TRADEMARK OFFICE

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Client/Matter No.: NL 000585 (7790/359)

# of Pages: 18  
(including cover sheet)

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<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;"><i>(to be used for all correspondence after initial filing)</i></p>	Attorney Docket No.	NL 000585 (7790/359)
	Application Number	10/040,172
	Filing Date	OCTOBER 23, 2001
	First Named Inventor	ROBERT D. SCHOFIELD
	Group Art Unit	2642
	Examiner	AL AUBAIDI, RASHA S.

USPTO Form 100 (Rev. 11/85) (Use only if applicable)	
<input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Status Letter <input type="checkbox"/> Petition for Extension of Time Request (duplic) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement, PTO-1449, art <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ 	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawings: <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request of Refund <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed. <input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.106(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 50-1713. A duplicate copy of this sheet is enclosed.
	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Reply Brief (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Post Card Receipt <input type="checkbox"/> Additional Enclosure(s) (please identify below). <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

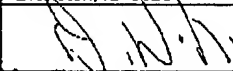
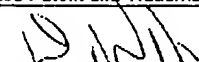
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	Claims After Amendment		Highest No Previously Paid For	Present Extra
Total		Minus		0
Indep.		Minus		0
Total Documentation of Multiple Dep. Claim				

Small Entity	
Rate	Add'l Fee
x \$25=	0
x \$100	0
+\$180	--
total add'l fee	\$ 0

or

Large Entity	
Rate	Add'l Fee
x \$50=	
x \$200	
+\$350=	
total add'l fee	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	DARRIN WESLEY HARRIS Registration No. 40,636 CARDINAL LAW GROUP 1803 Orrington Avenue, Suite 2000 Evanston, IL 60201
Signature	 Date May 18, 2005
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Name of Appellant, assignee or registered representative

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Signature

May 18, 2005  
Date of Signature

**PATENT**  
**Case No. NL 000585**  
**(7790/359)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:	)	
	)	
ROBERT D. SCHOFIELD	)	
	)	Examiner: AL. AUBAIDI, RASHA S
Serial No.: 10/040,172	)	
	)	Group Art Unit: 2642
Filed: OCTOBER 23, 2001	)	
	)	
For: USER CONTROL OF TELEPHONE	)	
SWITCH THROUGH A	)	
HTTP CLIENT APPLICATION	)	

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Reply Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

A statement indicating the real party in interest is contained in the Appeal Brief  
filed December 20, 2004.

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2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are still not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

A statement of the status of the claims is contained in the Appeal Brief filed  
December 20, 2004.

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4. STATUS OF AMENDMENTS

A statement of the status of amendments is contained in the Appeal Brief filed  
December 20, 2004.



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5. SUMMARY OF THE CLAIMED INVENTION

A statement of the summary of the claimed invention is contained in the Appeal Brief filed on December 20, 2004. The Appellant respectfully asserts that the aforementioned statement is directed to all of the claimed limitations of claims 17-19 on appeal. In particular, the definition of the term "operatively associated" as recited in claims 17-19 is supported by the following paragraph in the aforementioned statement:

"For both embodiments, if the browser is associated with a particular telephone, then the communication system knows exactly to which telephone the calls for the user that logged in via the browser must be routed. Additionally, if the web page is associated with the telephone, then the user can log in through the web page and identify himself. The telephone switch now knows that the user is not at his own extension but at a different extension and can route the calls to the user the different extension. *See, U.S. Patent Application Serial No. 10/040,172 at page 4, lines 20-26.*"

The Appellant respectfully asserts Examiner Al Aubaidi's clear failure to appreciate and understand the definitional support for the term "operatively associated" that is provided by this paragraph explains Examiner Al Aubaidi's failure to understand the term "operatively associated" as recited in claims 17-19 on appeal.

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6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The Appellant respectfully asserts that claims 17-19 stand finally rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,091,808 to *Wood*, and not under 35 U.S.C. §103(a) as being unpatentable over *Wood*.

Specifically, MPEP §707.07(d) requires Examiner Al Abuaidi to fully and clearly state each ground of rejection. In this context, cancelled claims 1-16 were fully and clearly rejected under 35 U.S.C. §102(b) as being anticipated by *Wood* in paragraph 2 of the *Non-Final Office Action* dated March 12, 2004. However, due to conflicting language in paragraph 2 of the *Final Office Action* dated July 14, 2004, claims 17-19 on appeal can not be deemed by the Appellant to be fully and clearly rejected under either U.S.C. §102(b) as being anticipated by *Wood* or under U.S.C. §103(b) as being unpatentable over *Wood* based exclusively on paragraph 2 of the *Final Office Action*.

Nonetheless, paragraph 3 of the *Final Office Action* unequivocally supports the fact that claims 17-19 were correctly deemed by the Appellant as being rejected under U.S.C. §102(b) as being anticipated by *Wood*, because Examiner Al Abuaidi acknowledges in paragraph 3 of the *Final Office Action* that he fully considered the Appellant's arguments in the Appellant's reply to the *Non-Final Office Action* regarding the failure of *Wood* to anticipate claims 17-19 as not being persuasive. In other words, a rejection of claims 17-19 under U.S.C. §103(b) as being unpatentable over *Wood* in the *Final Office Action* only makes sense if Examiner Al Abuaidi considered the Appellant's

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arguments in the Appellant's reply to *Non-Final Office* Action regarding the failure of *Wood* to anticipate claims 17-19 to be persuasive.

Moreover, as mandated by MPEP §707.07(d), Examiner Al Abuaidi should have clarified the rejection of claims 17-19 as either being anticipated by *Wood* under 35 U.S.C. §102(b) or obvious in view of *Wood* under 35 U.S.C. §103(a) in the *Advisory Action* dated October 4, 2004. This failure of Al Abuaidi to clarify the rejection of claims 17-19 in the *Advisory Action* led the Appellant to believe the characterization of the rejection of claims 17-19 as being anticipated by *Wood* to be the correct characterization of the rejection of claims 17-19 in the *Final Office Action*. Therefore, for purposes of appeal, the Appellant respectfully asserts that claims 17-19 should be viewed as being anticipated by *Wood* under 35 U.S.C. §102(b).

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7. ARGUMENT

In the Appcal Brief filed on December 20, 2004, the Appellant clearly traverses the anticipation rejection of independent claims 17-19, because *Wood* fails to disclose and teaches away from the following limitations of claims 17-19:

1. “wherein one of the web page and the web browser is operatively associated with a calling number of the telephone” as recited in independent claim 17;
2. “wherein the web page is operatively associated by the web server with a calling number of the telephone” as recited in independent claim 18; and
3. “wherein the web browser is operatively associated by the web server with a calling number of the telephone” as recited in independent claim 19.

The Appellant thereafter supported the assertion that *Wood* fails to recite the aforementioned limitations of claims 17-19 by providing a comparison of *Wood* and the definitional support for the term “operatively associated” provided in the present application. This is analogous to the Appellant properly asserting a reference did not

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teach a telephone as recited in independent claim 17 by supporting the assertion with a comparison of the two (2) telephone embodiments shown in FIGS. 2 and 3 of the present application to the allegedly telephone in the prior art reference. It is well acknowledged as proper prosecution practice that the support for the assertion that the prior art reference did not disclose a telephone would not require the Appellant to recite the definitional support of a telephone in the present application into the limitations of independent claim 17 (i.e., the embodiments shown in FIGS. 2 and 3), because the term "telephone", as with the term "operatively associated", was intended to stand by itself in claim 17 with the benefit of a supported definition thereof in the art and/or in the present application.

In the Examiner's Answer, Examiner Al Abuaiddi characterizes this support as being extremely unusual and untenable. The Appellant respectfully asserts that what is unfortunately usual and definitely untenable is the common practice by Examiners to take the arguments of Applicants/Appellants out of context in order to misuse the phrase "the Applicant/Appellant is trying read limitations not recited in the claims into the claims".

In summary, the Appellant was not trying to read limitations not recited in claims 17-19 into claims 17-19. The Appellant clearly set forth which limitations of claims 17-19 were neither taught nor suggested by *Wood*, and supported this assertion with a comparison of *Wood* and the definitional support for the term "operatively associated" provided in the present application. Withdrawal of the rejection of independent claims 17-19 under 35 U.S.C. §102(b) as being anticipated by *Wood* is therefore respectfully requested.

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Dated: May 18, 2005

Respectfully submitted,

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CLAIMS APPENDIX

17. A communication system, comprising:

a telephone;

a telephone switch operative to interact with the telephone and provide a control function to a user of the telephone; and

a web server connected to the telephone switch and operative to provide the control function to the user of the telephone via a web page provided by the web server and accessible by a web browser, wherein one of the web page and the web browser is operatively associated with a calling number of the telephone.

18. In a communication system employing a telephone and a telephone switch, a web system comprising:

a web server; and

a web page provided by the web server and accessible via a web browser;

wherein the web server is operable to interact with the telephone switch and the web page is operable to interact with the web browser to thereby provide a control function to a user of a telephone, and

wherein the web page is operatively associated by the web server with a calling number of the telephone.

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19. In a communication system employing a telephone and a telephone switch, a web system comprising:

a web server; and

a web page provided by the web server and accessible via a web browser  
operatively associated by the web server with a calling number of the telephone,

wherein the web server is operable to interact with the telephone switch  
and the web page is operable to interact with the web browser to thereby provide a  
control function to a user of a telephone.



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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.